

PATENT COOPERATION

FOR
TREATY

DOCKETED

Written Opinion

From the
INTERNATIONAL PRELIMINARY EXAMINING AUTHORITY

DATE

7/2/02

CHE'D

PCT

DATE

To: CONARD, RICHARD D.
BARNES & THORNBURG
11 SOUTH MERIDIAN STREET
INDIANAPOLIS, IN 46204

RECEIVED

JUL 01 2002

BARNES & THORNBURG

WRITTEN OPINION

(PCT Rule 66)

Date of Mailing
(day/month/year)

24 JUN 2002

Applicant's or agent's file reference

7175-67325

REPLY DUE

within ONE months
from the above date of mailing

International application No.

PCT/US00/42333

International filing date (day/month/year)

29 NOVEMBER 2000

Priority date (day/month/year)

29 NOVEMBER 1999

International Patent Classification (IPC) or both national classification and IPC
IPC(7): A 61M 3/00, 27/00 and US Cl.: 604/73 543

Applicant

HENLEY, ALAN WAYNE

1. This written opinion is the first (first, etc.) drawn by this International Preliminary Examining Authority.

2. This opinion contains indications relating to the following items:

- I ☒ Basis of the opinion
- II ☐ Priority
- III ☐ Non-establishment of opinion with regard to novelty, inventive step or industrial applicability
- IV ☐ Lack of unity of invention
- V ☒ Reasoned statement under Rule 66.2(a)(ii) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement
- VI ☐ Certain documents cited
- VII ☐ Certain defects in the international application
- VIII ☐ Certain observations on the international application

3. The applicant is hereby invited to reply to this opinion.

When? See the time limit indicated above. ~~The applicant may, before the expiration of that time limit, request this Authority to grant an extension, see Rule 66.2(d).~~**How?** By submitting a written reply, accompanied, where appropriate, by amendments, according to Rule 66.3. For the form and the language of the amendments, see Rules 66.8 and 66.9.**Also** For an additional opportunity to submit amendments, see Rule 66.4. For the examiner's obligation to consider amendments and/or arguments, see Rule 66.4 *bis*. For an informal communication with the examiner, see Rule 66.6.**If no reply is filed**, the international preliminary examination report will be established on the basis of this opinion.4. The final date by which the international preliminary examination report must be established according to Rule 69.2 is: 29 MARCH 2002Name and mailing address of the IPEA/US
Commissioner of Patents and Trademarks
Box PCT
Washington, D.C. 20231

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Authorized officer

DENNIS RUHL

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WRITTEN OPINION

International application No.

PCT/US00/42333

I. Basis of the opinion

1. With regard to the elements of the international application:*

☒ the international application as originally filed

☒ the description:

pages 1-18

pages NONE, as originally filed

pages NONE, filed with the demand

pages NONE, filed with the letter of

☒ the claims:

pages 19-24

pages NONE, as originally filed

pages NONE, as amended (together with any statement) under Article 19

pages NONE, filed with the demand

pages NONE, filed with the letter of

☒ the drawings:

pages 1-10

pages NONE, as originally filed

pages NONE, filed with the demand

pages NONE, filed with the letter of

☒ the sequence listing part of the description:

pages NONE

pages NONE, as originally filed

pages NONE, filed with the demand

pages NONE, filed with the letter of

2. With regard to the language, all the elements marked above were available or furnished to this Authority in the language in which the international application was filed, unless otherwise indicated under this item.

These elements were available or furnished to this Authority in the following language _____ which is:

☐ the language of a translation furnished for the purposes of international search (under Rule 23.1(b)).

☐ the language of publication of the international application (under Rule 48.3(b)).

☐ the language of the translation furnished for the purposes of international preliminary examination (under Rules 55.2 and/or 55.3).

3. With regard to any nucleotide and/or amino acid sequence disclosed in the international application, the written opinion was drawn on the basis of the sequence listing:

☐ contained in the international application in printed form.

☐ filed together with the international application in computer readable form.

☐ furnished subsequently to this Authority in written form.

☐ furnished subsequently to this Authority in computer readable form.

☐ The statement that the subsequently furnished written sequence listing does not go beyond the disclosure in the international application as filed has been furnished.

☐ The statement that the information recorded in computer readable form is identical to the written sequence listing has been furnished.

4. ☒ The amendments have resulted in the cancellation of:

☒ the description, pages NONE

☒ the claims, Nos. NONE

☒ the drawings, sheets/fig. NONE

5. ☐ This opinion has been drawn as if (some of) the amendments had not been made, since they have been considered to go beyond the disclosure as filed, as indicated in the Supplemental Box (Rule 70.2(c)).

* Replacement sheets which have been furnished to the receiving Office in response to an invitation under Article 14 are referred to in this opinion as "originally filed".

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V. Reasoned statement under Rule 66.2(a)(ii) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement

1. statement

| | | | |
|-------------------------------|--------|-------------|-----|
| Novelty (N) | Claims | <u>3-44</u> | YES |
| | Claims | <u>1-2</u> | NO |
| Inventive Step (IS) | Claims | <u>8-44</u> | YES |
| | Claims | <u>1-7</u> | NO |
| Industrial Applicability (IA) | Claims | <u>1-44</u> | YES |
| | Claims | <u>NONE</u> | NO |

2. citations and explanations

Claims 1 and 2 lack novelty under PCT Article 33(2) as being anticipated by Wilson (US 4,457,755).

With respect to claim 1, Wilson discloses a control system comprising a vacuum pump, a waste container to be operably coupled to the pump, a fluid source, a drive associated with the fluid source wherein the canister is to be coupled to a bandage such that when a vacuum is applied to the canister, the vacuum is applied to the bandage and wherein the fluid source is to be coupled to the bandage such that when the drive is energized, fluid is introduced into the wound as set forth in col. 3, lines 30-40 and figure 6.

Regarding claim 2, Wilson discloses the control system wherein the fluid source is a syringe to be coupled to the control system, the syringe including a plunger, and the drive being configured to drive the plunger to expel fluid from the syringe as set forth in col. 3, lines 30-40 and figure 6.

Claim 1 lacks novelty under PCT Article 33(2) as being anticipated by Fleischmann (EP 0 880 953).

With respect to claim 1, Fleischmann discloses a control system comprising a vacuum pump, a waste container to be operably coupled to the pump, a fluid source, a drive associated with the fluid source wherein the canister is to be coupled to a bandage such that when a vacuum is applied to the canister, the vacuum is applied to the bandage and wherein the fluid source is to be coupled to the bandage such that when the drive is energized, fluid is introduced into the wound as set forth in col. 6, lines 46-48 and figure 1.

Claims 2-7 lack an inventive step under PCT Article 33(3) as being obvious over Fleischmann (EP 0 880 953).

With reference to claims 2-7 Fleischmann teaches an a control system meeting the limitations of the claims as set forth in col. 7, line 3 to col. 11, line 28 and figures 1-2

Claims 8-44 meet the criteria set out in PCT Article 33(2)-(Continued on Supplemental Sheet.)

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Supplemental Box

(To be used when the space in any of the preceding boxes is not sufficient)

Continuation of: Boxes I - VIII

Sheet 10

TIME LIMIT:

The time limit set for response to a Written Opinion may not be extended. 37 CFR 1.484(d). Any response received after the expiration of the time limit set in the Written Opinion will not be considered in preparing the International Preliminary Examination Report.

V. 2. REASONED STATEMENTS - CITATIONS AND EXPLANATIONS (Continued):

(4), because the prior art does not teach or fairly suggest a control system comprising a vacuum pump, a waste container to be operably coupled to the pump, a fluid source, a drive associated with the fluid source wherein the canister is to be coupled to a bandage such that when a vacuum is applied to the canister, the vacuum is applied to the bandage and wherein the fluid source is to be coupled to the bandage such that when the drive is energized, fluid is introduced into the wound along with an adjustable valve used to establish the level of vacuum inside the canister, a hydrophobic filter, mounts, a fluid source held at an elevated position relative to the control system and/or an outlet port positioned to engage the suction port.

----- NEW CITATIONS -----

NONE